

A record has been established for this rulemaking under docket number [PP 5E4429/P631] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Parts 180 and 185

Environmental protection, Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 18, 1995.

Peter Caulkins,

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that parts 180 and 185 be amended as follows:

#### PART 180—[AMENDED]

##### 1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.381, by amending paragraph (a) by revising the introductory text therein and revising paragraph (b), to read as follows:

##### § 180.381 Oxyfluorfen; tolerances for residues.

(a) Tolerances are established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] in or on the following raw agricultural commodities:

*	*	*	*
*			

(b) Tolerances with regional registration are established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] in or on the following raw agricultural commodities:

Commodity	Parts per million
Blackberry .....	0.05
Garbanzo beans .....	0.05
Guava .....	0.05
Papaya .....	0.05

Commodity	Parts per million
Taro (corms and leaves) .....	0.05
Raspberry .....	0.05

#### PART 185—[AMENDED]

##### 2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. By amending § 185.4600 by revising the introductory text to read as follows:

##### § 185.4600 Oxyfluorfen.

A regulation is established permitting residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] in or on the following processed food when present therein as a result of application of the herbicide to growing crops:

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*			

[FR Doc. 95-24005 Filed 9-26-95; 8:45 am]

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#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### 50 CFR Part 17

##### Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List *Mimulus clivicola* (Bank Monkeyflower)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list *Mimulus clivicola* (bank monkeyflower) pursuant to the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial data, the Service finds that listing this species is not warranted at this time.

**DATES:** The finding announced in this document was made on September 19, 1995.

**ADDRESSES:** Data, information, comments, or questions concerning this petition may be sent to the Field Supervisor, Portland Field Office, U.S. Fish and Wildlife Service, 2600 SE 98th Avenue, Suite 100, Portland, Oregon 97266. The petition finding, supporting data, comments, and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Dr. Andrew F. Robinson, Jr., staff botanist, see **ADDRESSES** section or telephone 503/231-6179.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that presents substantial scientific and commercial information, the Service make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Such 12-month findings are to be published promptly in the Federal Register.

On June 28, 1989, the Service received a petition dated May 1, 1989, from Steve Paulson representing Friends of the Clearwater, Lenore, Idaho, to list *Mimulus clivicola* (bank monkeyflower) as an endangered species. The petition cited as potential threats to the species an extremely limited range, the threatened destruction of habitat (specifically the Dworshak connection road, Clearwater National Forest), and the inadequacy of existing regulatory mechanisms. At the time of the petition there were only 30 documented populations of *M. clivicola*. A 90-day finding was made by the Service that the petition presented substantial information indicating that the requested action may be warranted. The 90-day finding was published in the Federal Register on November 1, 1990 (55 FR 46080). A status review was continued for the category 2 candidate species (50 FR 6214; February 21, 1990). The Service reclassified *Mimulus clivicola* as a category 3C candidate on September 30, 1993 (58 FR 51175) as a result of new information about the status of the species. Category 3C candidates are those taxa that have proven to be more abundant or widespread than previously believed and/or those that are not subject to any identifiable threat.

*Mimulus clivicola* is an annual herb up to about 6 inches in height with purple flowers and opposite elliptic leaves. *M. clivicola* occurs within fairly mountainous regions from 1,200 feet to 7,120 feet elevation in Idaho and Oregon. The plant is typically found where there is exposed mineral soil, including sites where the soil has been exposed because of big game activity or

manmade disturbance along trails and roadcuts. However, the species also needs moist areas that are saturated in the spring. Today there are 152 known extant populations with a combined population size varying from 46,000 to 63,000 plants that occupy 132 acres of habitat. The majority of the populations (92 percent) occur on Federal land including 6 populations occurring on Bureau of Land Management lands and 134 on Forest Service lands. Only 12 populations (8 percent) occur on private lands.

A Species Management Guide, which specifically addresses conservation strategies for *Mimulus clivicola* on Forest Service lands was prepared in 1992 by the Forest Service. Of the 134 populations occurring on Forest Service lands, 58 were identified for protection with the 1992 Species Management Guide. The construction of Dworshak Reservoir on the North fork Clearwater River destroyed habitats occupied by *M. clivicola* (the Ahasanka and Dent populations). Although road building/maintenance, mining, recreational activities, timber harvest, cattle grazing, and alien plant invasions still disturb 118 out of 152 populations (78 percent) of *M. clivicola*, recent information indicates that this species is tolerant of moderate disturbance. This conclusion is based on the fact that much of the habitat with areas of exposed mineral soil that support *M. clivicola* populations was along the tops of older roadcuts or beside trails. Currently 20 populations grow along trails and 68 grow along roads. Eight populations occurring on the Payette National Forest in Idaho and Wallowa-Whitman National Forests in Oregon are subject to damage by livestock grazing. Exclosures were constructed around two of these populations in the Wallowa-Whitman National Forests in 1990 to protect these sites. The presence of *Bromus tectorum* (cheatgrass), a weedy alien annual plant, has been documented as being present in 59 (39 percent) populations of *M. clivicola*. Preliminary laboratory studies suggest that *B. tectorum* inhibits germination (allelopathic affects) of selected native plants. *M. clivicola* is an annual species, and thus the presence of *B. tectorum* and the possibility of it inhibiting germination of seed of *M. clivicola* may affect these populations. However, there is no information at this time to indicate that the continued existence of *M. clivicola* as a species is threatened by the presence of such invasive alien plants.

The service has reviewed the petition, other available literature and information, and consulted with biologists and researchers familiar with

*Mimulus clivicola*. On the basis of the best scientific and commercial information available regarding *M. clivicola*, the Service finds that the petitioned action is not warranted at this time because the taxon is not in danger of extinction or likely to become so in the foreseeable future. The Service reclassified *M. clivicola* as a category 3C candidate on September 30, 1993 (58 FR 51175). Category 3C candidates are those taxa that have proven to be more abundant or widespread than previously believed and/or those that are not subject to any identifiable threat. If information becomes available indicating that *M. clivicola* may be threatened with extinction, the Service would reevaluate this decision.

**References**

A complete list of references used in the preparation of this finding is available upon request from the Portland Field Office (see **ADDRESSES** section).

**Author**

The primary author of this document is Dr. Andrew F. Robinson Jr., Portland Field Office (see **ADDRESSES** section).

**Authority**

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: September 19, 1995.

John G. Rogers,

Director, Fish and Wildlife Service.

[FR Doc. 95-23974 Filed 9-26-95; 8:45 am]

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**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List Desert Redband Trout in the Snake River Drainage Above Brownlee Dam and Below Shoshone Falls as Threatened or Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the desert populations of interior redband trout (*Oncorhynchus mykiss gairdneri*) in the Snake River drainage above Brownlee Dam and below Shoshone Falls as a threatened or endangered species under the Endangered Species Act of 1973, as amended. The Service finds that the petition did not present substantial scientific or commercial information